

Application Serial No. 10/615,652

Remarks/Arguments

Applicants have received and carefully reviewed the Office Action of the Examiner mailed August 23, 2007. Currently, claims 20, 22, 24-37, and 39-44 remain pending of which claims 27-33 were previously withdrawn from consideration. Claims 20, 22, 24-26, 34-37, and 39-44 have been rejected. With this amendment, claims 27-33, which were previously withdrawn from consideration, have been canceled. Favorable consideration of the following remarks is respectfully requested.

Claim Rejections – 35 USC § 103

In paragraph 3 of the Office Action, claims 20, 22, 25-26, 34-36, and 39-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of Bosma et al. (U.S. Patent No. 6,241,746). After careful review, Applicant must respectfully traverse this rejection.

Turning to claim 20, which recites:

20. (Previously Presented) A filtering device, comprising:
a body member;
a plurality of struts including a proximal end region and a distal end region, the plurality of struts fixedly attached to the body member and extending therefrom;
an anchoring member disposed adjacent the distal end region of at least some of the plurality of struts; and
wherein one or more of the struts include a weakened region coupling the anchoring member to the distal end region of at least some of the plurality of struts, wherein the weakened region is configured to fail releasing the anchoring member from the at least some of the plurality of struts.

Nowhere does Ravenscroft et al. or Bosma et al. appear to teach or suggest, “wherein one or more of the struts include a weakened region coupling the anchoring member to the distal end region of at least some of the plurality of struts, wherein the weakened region is configured to fail releasing the anchoring member from the at least some of the plurality of struts”, as recited in claim 20.

In the Office Action, the Examiner acknowledges that Ravenscroft et al. fails to teach or suggest a weakened or reduced cross-sectional area region being configured to fail, releasing the anchoring member from a stem portion. However, the Examiner asserts that Bosma et al. teaches the weakened region or reduced cross-sectional area region being configured to fail

Application Serial No. 10/615,652

releasing the anchoring member from the distal end of the struts citing Figures 1-3 and column 3, lines 53-64. After careful review, Applicant must respectfully disagree.

Instead, Bosma et al. appears to teach a vascular filter that is transformable into a stent by providing a locking pin 26 and clamp 22. Clamp 22 appears to engage a removable locking pin 26 to collapse the ends of the filter element. When the locking pin 26 is removed, clamp 22 releases the filter ends. Nowhere does this appear to teach or suggest the clamp failing to release an anchoring member from the distal end of the struts, let alone a weakened of the struts failing. In fact, the struts of Bosma et al. appear to stay in one piece and merely expand.

Furthermore, nowhere does Bosma et al. appear to teach or suggest weakened region of the stent. Instead, the filter elements 14 appear to have a relatively uniform thickness and strength. Therefore, as can be clearly seen, nowhere does Bosma et al. appear to teach or suggest, "wherein one or more of the struts include a weakened region coupling the anchoring member to the distal end region of at least some of the plurality of struts, wherein the weakened region is configured to fail releasing the anchoring member from the at least some of the plurality of struts", as recited in claim 20. Thus, for at least these reasons, claim 20 is believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Additionally, for similar reasons, as well as others, claims 22, 25-26, and 41-42, which depend from claim 20, are believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Turning to claim 34, which recites:

34. (Previously Presented) A medical device, comprising:
a body member;
a plurality of struts fixedly attached to the body member and extending therefrom;
an anchoring member disposed on a distal end of each of the struts; and
a reduced cross-sectional area region defined in each of the struts proximal of the anchoring member, wherein the reduced cross-sectional area region is configured to fail releasing the anchoring member from the distal end of each of the struts.

Nowhere does Bosma et al. appear to teach or suggest, "a reduced cross-sectional area region defined in each of the struts proximal of the anchoring member, wherein the reduced cross-sectional area region is configured to fail releasing the anchoring member from the distal end of each of the struts", as recited in claim 34.

Application Serial No. 10/615,652

In the Office Action, the Examiner cites "22" as teaching a weakened or reduced cross-section area. However, reference numeral 22 refers to clamp. Clearly, this is not a reduced cross-sectional region in each of the struts. In fact, clamp 22 is not even part of the struts, but is a separate member. As such, Bosma et al. clearly fails to teach or suggest a reduced cross-section area, as recited in claim 34.

Furthermore, in the Office Action, the Examiner asserts that clamp 22 fails to release the anchoring member. However, nowhere does clamp 22 appear to fail in Bosma et al. Instead, clamp 22 appears to engage a removable locking pin 26 to collapse the ends of the filter element. When the locking pin 26 is removed, clamp 22 releases the filter ends. Nowhere does this appear to teach or suggest the clamp failing to release an anchoring member from the distal end of the struts, let alone a reduced cross-sectional area of the struts failing. In fact, the struts of Bosma et al. appear to stay in one piece and merely expand.

Furthermore, nowhere does the combination of Ravenscroft et al. and Bosma et al. appear to teach or suggest releasing an anchoring member, which is disposed on the distal end of struts, from the struts. Ravenscroft et al. appear to teach or suggest the anchoring members deforming under a pressure to release from the vessel wall and Bosma et al. merely appears to teach or suggest releasing the ends of a filter to expand the filter and convert it to a stent. Moreover, Applicant can find no motivation to combine the teachings of Bosma et al. of converting a filter to a stent with the teachings of Ravenscroft et al. of a filter to arrive at the claimed invention. Therefore, for at least these reasons, claim 34 is believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Additionally, for similar reasons, as well as others, claims 35-36, which depend from claim 34, are believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Turning to claim 39, which recites:

39. (Previously Presented) A filtering device, comprising:
a conically-shaped filtering basket including an apex, a plurality of arms extending from the apex, and a plurality of rigid anchoring members coupled to the arms and positioned opposite the apex, each arm including a joined end fixedly attached to the apex; and
wherein the arms include a reduced cross-section area region.

Nowhere does Ravenscroft et al. or Bosma et al. appear to teach or suggest, "a plurality of rigid anchoring members", as recited in claim 39. Instead, Ravenscroft et al. appears to teach

Application Serial No. 10/615,652

flexible anchoring members that deform under a pressure to release the filter from the vessel. Bosma et al. does not appear to remedy the shortcomings of Ravenscroft et al. in this respect. Therefore, for at least these reasons, claim 39 is believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Turning to claim 40, which recites:

40. (Previously Presented) A filtering device, comprising:
a conically-shaped filtering basket including an apex, a plurality of arms extending from the apex, and a plurality of anchoring members coupled to the arms and positioned opposite the apex, each arm including a joined end fixedly attached to the apex; and
wherein the arms include a reduced cross-sectional area region configured to break releasing the anchoring members from the arms.

Nowhere does Ravenscroft et al. or Bosma et al. appear to teach or suggest, "wherein the arms include a reduced cross-sectional area region configured to break releasing the anchoring members from the arms", as recited in claim 40. As discussed previously, Bosma et al. merely appears to teach removing a locking pin 26 from a clamp 22 to release the ends of the filter to convert the filter to a stent. Therefore, for at least these reasons, claim 40 is believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Turning to claim 43, which recites:

43. (Previously Presented) A medical device, comprising:
a body member;
a plurality of struts fixedly attached to the body member and extending therefrom;
an anchoring member disposed on a distal end of each of the struts; and
means for releasing the anchoring member from the struts when subject to a force.

As can be clearly seen, claim 43 recites, "means for releasing the anchoring member from the struts when subject to a force". As such, claim 43 is believed to invoke 35 U.S.C. 112, sixth paragraph, that states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." As such, the "means or step plus function" limitation should be interpreted in a manner consistent with the specification disclosure. (See MPEP § 2181-2182). As discussed previously, nowhere does the combination of Ravenscroft et al. and Bosma et al. appear to teach or suggest "means for releasing the anchoring member from the struts when subject to a force", as recited in

Application Serial No. 10/615,652

claim 43. Therefore, for at least these reasons, claim 43 is believed to be patentable over Ravenscroft et al. in view of Bosma et al.

Additionally, for similar reasons, as well as others, claim 44, which depends from claim 43, is believed to be patentable over Ravenscroft et al. in view of Bosma et al.

In paragraph 4 of the Office Action, claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of Bosma et al. (U.S. Patent No. 6,241,746), and further in view of El-Nounou et al. (U.S. Patent No. 5,242,746). After careful review, Applicant must respectfully traverse this rejection. For similar reasons discussed above, as well as others, claim 24, which depends from claim 20, is believed to be patentable over Ravenscroft et al. in view of Bosma et al. and further in view of El-Nounou et al.

In paragraph 5 of the Office Action, claim 37 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of Bosma et al. (U.S. Patent No. 6,241,746), and further in view of Ambrisco et al. (U.S. Patent No. 6,007,557). After careful review, Applicant must respectfully traverse this rejection. For similar reasons discussed above, as well as others, claim 37, which depends from claim 34, is believed to be patentable over Ravenscroft et al. in view of Bosma et al. and further in view of Ambrisco et al.

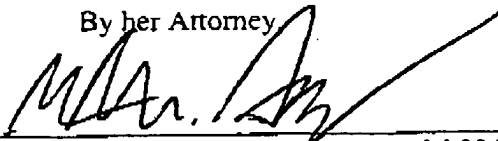
In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Kristian Di Matteo

By her Attorney

Date: Jan 23, 2009



Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicoller Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050